

June 10, 2019

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, MD 21286

Re: Beth El Congregation of Baltimore – Pavilion  
Forest Conservation Variance  
Tracking #02-19-3016

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on May 29, 2019. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.1-acre limit of disturbance (LOD) rather than the entire 14.6-acre property in order to construct a 1,786-square foot pavilion adjacent to an existing playground area. No forest or specimen trees exist within the project's LOD. Full compliance with the Law would require 2.2 acres of afforestation. However, if the variance is granted, no afforestation would be required for the 0.1-acre LOD given that figures on forest conservation worksheets are rounded to the tenth acre.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner to show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The property currently functions as a synagogue, social center, and a school. As such, the petitioner is already realizing significant use of the property without the proposed pavilion for which the variance is being sought. Consequently, we find that this criterion has not been met.

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The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to budgetary circumstances rather than general conditions of the neighborhood. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood predominantly consists of medium-density residential areas. Given that this property's long standing use as a synagogue with a social center and school will not change as a result of the proposed pavilion supporting this use, we find that granting this variance will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any streams, wetlands, floodplains, associated buffers, or forest. As such, this Department finds that the proposed variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any prior actions creating a condition to necessitate this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the LOD for the construction of the proposed pavilion would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given the small size of the LOD in comparison with the entire property and that no forest or specimen trees would be impacted by its construction. Therefore, this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The LOD shall be limited to the 0.1-acre area shown on the plans accompanying the variance application.

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2. The following note must be on all plans for this project:

“A variance was granted on June 10, 2019 by Baltimore County Department of Environmental Protection & Sustainability to allow afforestation requirements to be based on the 0.1-acre limit of disturbance for the addition of a pavilion adjacent to an existing playground area rather than the entire 14.6-acre property. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met in constructing the pavilion.”

3. Granting this variance does not exempt future development activities on this property, including removal of specimen trees, from full compliance with the Forest Conservation Law.

It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the appropriate Beth El Congregation representative sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Director

DVL/lbe

- c. Beth El Congregation of Baltimore, Owner  
Mr. Richard Matz, Colbert Matz Rosenfelt

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I/we agree to the above conditions to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

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Beth El Congregation Representative's Signature

Date

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Printed Name